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**OFFICE OF PETITIONS**

In re Application of  
Lim et al.  
Application No. 09/767,563  
Filed: 23 January, 2001  
Atty Docket No. A33875

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),<sup>1</sup> filed on 29 September, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 19 July, 2004, for failure to file a proper reply to the final Office action mailed on 18 February, 2004, which set a three (3) month shortened statutory period for reply. On 21 July, 2004 (certificate of mailing 19

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<sup>1</sup>Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

August, 2004), petitioners filed an amendment after final rejection and a two (2) month extension of time. The amendment did not place the case in *prima facie* condition for allowance, however, and an Advisory Action was mailed on 8 September, 2004. The filing of the present petition precedes the mailing of Notice of Abandonment.

On 29 September, 2004, a Request for Continued Examination (RCE) was filed, indicating that the amendment filed on 21 July, 2004 (certificate of mailing date 19 July, 2004), was the submission required under 37 CFR 1.114.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$530.00 extension of time fee submitted on 29 September, 2004, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and has been credited to counsel's deposit account, No. 02-4377.

The application is being referred to Technology Center Art Unit 2686 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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